

**CITY OF ROCKVILLE
COMMUNITY PLANNING & DEVELOPMENT SERVICES DEPARTMENT
STAFF REPORT**

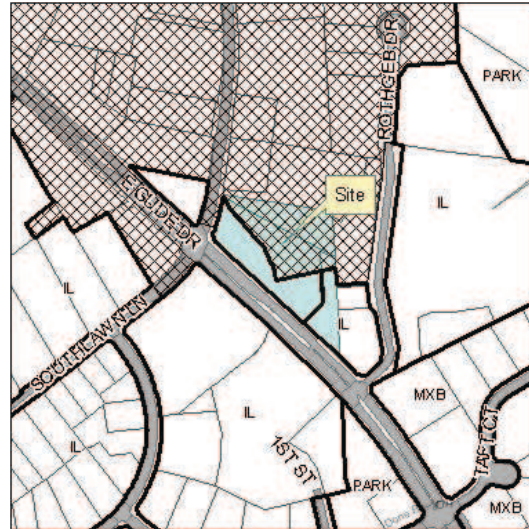
TO: Planning Commission

FROM: Jim Wasilak, AICP,
Chief of Planning
Bobby Ray, AICP,
Principal Planner

PLANNER: Jeremy Hurlbutt, AICP,
Planner III

DATE: May 4, 2010

SUBJECT: Annexation Petition
ANX2011-00140



RECOMMENDATION:

Recommend to the Mayor and Council approval of the annexation plan (see Attachment 1) and the proposed MXE (Mixed-Use Employment) zoning.

REQUEST:

The petitioners request annexation into the City of Rockville of an area consisting of 3.12 acres, part of Lot 12, Block B of the Burgundy Park subdivision, which is partially within and partially outside the City of Rockville corporate limits. This annexation petition area is adjacent and contiguous to an approximately 2.81 acre portion of Lot 12, Block B in Burgundy Park, which is located within the city limits and is zoned I-L, Light Industrial.

The land is owned by Burgundy Park Associates Limited Partnership. The site is mostly paved and has five existing buildings on the property. These buildings contain a mix of uses including retail, restaurant, office, and industrial uses. The Burgundy Park Center is located along the East Gude Drive frontage of the combined property. The petitioner requests that the Mayor and Council classify the property to be annexed as MXE (Mixed Use Employment) upon annexation.

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PROJECT / SITE INFORMATION:

Location: East of the intersection of Southlawn Lane and East Gude Drive.
1300-1314 East Gude Drive and 14803, 14805, 14809 Southlawn Lane; Lot 12, Block B – Burgundy Park

Applicant: Burgundy Park Associates Limited Partnership
c/o Robert Eisinger
Promark Real Estate Service, LLC
16220 South Frederick Avenue, Suite 325
Gaithersburg, MD 20877

Land Use Designation: Heavy Industrial (County)
Zoning District: I-2, Heavy Industrial (County)
Parcel Area: 3.12 Acres / 136,299 Square Feet
Subdivision: Burgundy Park
Building Floor Area: No new building proposed
Parking: No additional parking will be required

Surrounding Land Use and Zoning			
Location	Zoning	Planned Land Use	Existing Use
North	I-2 (County)	Service Industrial	Service Industrial
South	I-L	Service Industrial	Retail, Restaurant,
East	I-2 (County)	Service Industrial	Service Industrial
West	I-L	Service Industrial	Retail, Restaurant,

ANALYSIS:

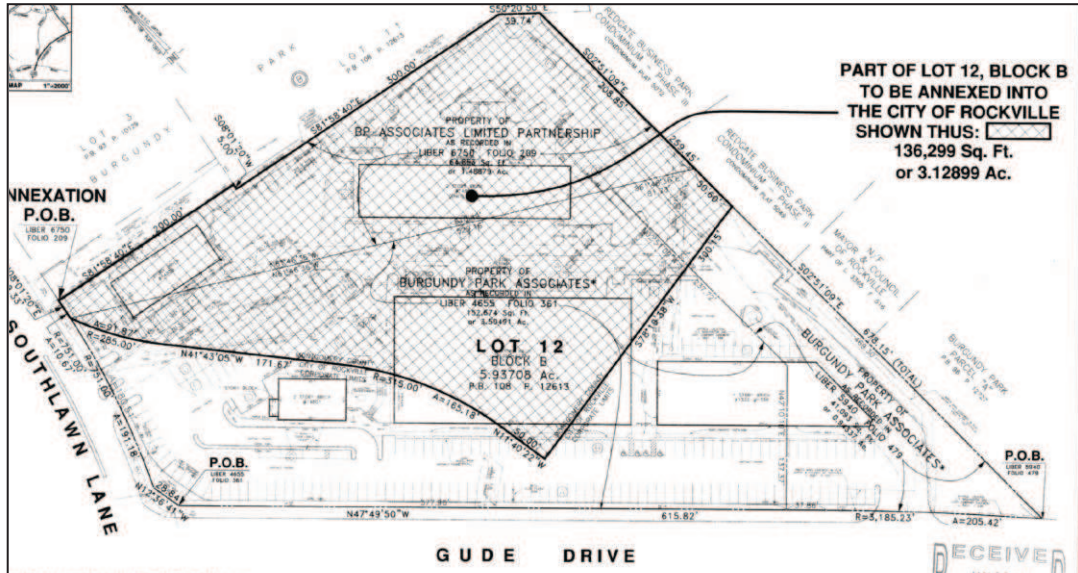
The project site is unique in that it is a developed site that is split between the City of Rockville and Montgomery County. Each jurisdiction has established a zoning classification for their respective portions of the site. The zoning is I-2 (Heavy Industrial) within the County, and I-L (Light Industrial) within the City. To further complicate the request neither of these zoning designations is consistent with the current use of the property. In an effort to provide consistency with the existing and future use of the property, the applicant is requesting that the zoning of the annexed portion be classified as MXE (Mixed Use Employment). The applicant will file a local map amendment for the portion

Annexation ANX2011-00140

May 4, 2011

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within the City to request MXE zoning. Currently there are no plans to further develop the property.



Master Plan and Zoning Compliance

The property is governed by the County's Upper Rock Creek Master Plan, and is located within the Southlawn/Red Gate Planning Area (16) of the City's Comprehensive Master Plan. The recommended land use designation in both documents is Service Industrial. As referenced above, the implementing zoning districts for these use designations applied to the property is I-2 (Heavy Industrial) within the County and I-L (Light Industrial) within the City. However, there are other adopted studies which are intended to govern the future use of the site.

Ordinance No. 36-83

In 1983 the Mayor and Council of Rockville adopted Ordinance 36-83 (see Attachment 3), which allowed specific uses to be implemented in conjunction with the development of a 12,512 square foot addition on the site. This application was authorized by a provision within the Zoning Ordinance which allowed improved properties "within and without the corporate limits of the City" to implement certain uses which were allowed at the time of the initial improvements in the County to also be allowed in the portion of the property in the City. Under this provision, the applicant sought permission to allow retail, restaurants, offices and banks with drive-through facilities. These uses were approved for the

portion of the property in the City with the adoption of the above-referenced ordinance on October 24, 1983.

Prior to this action, in correspondence dated April 8, 1983 (see Attachment 4) Montgomery County agreed with the proposed uses as approved by the City. In summary, the County stated that the area of the property “in the County is not regulated by the current provisions of the County’s I-2 zone....”, which did not permit retail, restaurant and office use, but is grandfathered and subject to the I-2 regulations as the existed in 1971. Further the letter states that:

“The cited zoning provisions, which are grandfathered allow commercial uses that are not permitted under the I-2 Zone’s current provisions. Since the older zoning provisions are also grandfathered, the Burgundy Park Center, as situated in the County can accommodate commercial uses which would not be permitted under the current zoning ordinance.”

Both of these documents support the future use of the property for uses other than light and / or heavy industrial. Staff feels that the requested MXE zoning district is consistent with the allowed uses identified in the above-referenced documents. The MXE district allows for the underlying light industrial use without precluding the use of the property for office and retail. The Zoning Ordinance provides the following description of the MXE district:

“Intended for areas that are either currently developed or are recommended for development primarily for office, light industrial, and industrial park uses, this zone allows for medium density development of office, retail, and residential uses. A mix of office and residential uses, including live/work and work/live units, is encouraged.”

1999 Gude Drive – Southlawn Lane Special Study

In 1999 the Montgomery County Planning Board received a special study of the Gude Drive – Southlawn Lane area. The purpose of the study was the establishment of a policy regarding annexations in the study area for properties zoned for heavy industrial use. The study concluded that it

was important to maintain as much of the current I-2 zoned land as possible, which is located generally along Southlawn Lane north of East Gude Drive. However, for the subject property the study concludes that:

“The existing retail center in the southeast quadrant of the intersection of Gude Drive and Southlawn Lane is suitable for light industrial or other service industrial activities.”

The study acknowledges that the City’s service industrial zoning (which was I-1 at that time) allowed for certain retail functions, while prohibiting certain heavy industrial uses allowed in the County’s I-2 zone. Based on the study’s concurrence that service industrial use is appropriate for this property, and the fact that the MXE district is consistent with this type of designation, staff is supportive of the requested zoning. The proposed MXE zoning is appropriate for allowing the continuation of the existing uses in the center as permitted uses, as well as providing for the future development of light and service industrial activities in combination.

PUBLIC OUTREACH:

An ad was posted in the Washington Post on April 20, 2011, which was provided at least 15 days before this Public Hearing as required by law (See Attachment 5). Postcards were also sent to properties within 500 feet.

PROCESS:

The subject petition has been submitted in accordance with provisions of Article 23A of the Annotated Code of Maryland, which specifies procedures for annexation to a municipal corporation. This law requires the Mayor and Council to introduce a resolution to propose annexation promptly upon being petitioned to do so. Such a resolution was introduced on March 28, 2011 (See Attachment 6), and the Mayor and Council have scheduled a public hearing for June 20, 2011 (See Attachment 7). The Mayor and Council are also required to conduct a public hearing simultaneously for the adoption of a new zoning classification and the enlargement of the corporate boundaries.

Prior to Mayor and Council’s public hearing, the Planning Commission is required to study the subject area and transmit to the Mayor and Council its recommendation as to the appropriate zoning classification and on the proposed Annexation Plan (See Attachment 1). The Rockville Zoning Ordinance requires

that the Planning Commission submit a final report to the Mayor and Council after conducting a public hearing.

CONCLUSION:

Staff recommends that the Planning Commission review and recommend approval of the attached Annexation Plan to the Mayor and Council. The impact on City resources and public facilities of annexing the remainder of this property is expected to be minimal.

Additionally, for the reasons outlined in the report, staff supports the requested MXE zoning designation. State annexation law requires that the County approve any zoning which would allow for land uses substantially different than the use currently authorized. The County's I-2 zoning district would preclude the use of the property for many of the non-industrial uses of the MXE zoning district. However, staff feels that these non-industrial uses have already been specifically authorized in the County's 1983 correspondence. The proposed MXE zone will insure the uses that were originally approved with this project will be able to be maintained, and does not preclude the future light or service industrial use of the site.

Concurrence of the County Council will be necessary for the implementation of the MXE district. If the County Council does not approve the MXE zoning proposed, State law requires that the annexed property be placed into a consistent zone for a five year period. An Annexation agreement will be drafted for review and approval by the Mayor and Council to ensure that development on the site, the recommendation of the Montgomery County Council, and the requirements of the Zoning Ordinance, are compatible.

Attachments:

1. Annexation Plan
2. Property Survey
3. Mayor and Council Ordinance 36-83
4. April 8, 1983, Montgomery County Letter
5. Notification Postcard & Addresses
6. Resolution to Enlarge the Corporate Boundary
7. Resolution to Adopt the Public Hearing Date

City of Rockville Department of Community Planning and Development Services
Annexation Plan
May 4, 2011

Subject: Annexation ANX2011-00140

Property Owner: BP Associates Limited Partnership
c/o Robert Eisinger
Promark Real Estate Service, LLC
16220 South Fredrick Avenue, Suite 325
Gaithersburg, MD 20877

Location of Property: East of the intersection of Southlawn Lane and East Gude Drive, 1300-1314 East Gude Drive and 14803, 14805, and 14809 Southlawn Lane, part of Lot 12, Block B – Burgundy Park; known as Burgundy Park Center.

Pursuant to Article 23A, Section 19(o) of the Annotated Code of Maryland, the Annexation Plan shall include a description of the land use pattern proposed for the area to be annexed; demonstrate the available land for public facilities; describe the schedule and anticipated means of financing the extension of services. Herewith is a proposed outline for extension of services and public facilities into the areas proposed to be annexed.

The area proposed for annexation is within the City's Maximum Expansion Limits, as established in the Municipal Growth Element, adopted in December 2010, of the City's Master Plan.

Land Use Patterns of Areas Proposed to be Annexed

The area of annexation is approximately 3.12 acres, which is a portion of Lot 12, Block B of the Burgundy Park subdivision.

The project site is a developed site that is split between the City of Rockville and Montgomery County. Each jurisdiction has established a zoning classification for their respective portions of the site. The zoning is I-2 (Heavy Industrial) within the County, and I-L (Light Industrial) within the City. Neither of these zoning districts is consistent with the current use of the property, which includes office, retail and restaurant uses.

The property is governed by the County's Upper Rock Creek Master Plan, and is located within the Southlawn/Redgate Planning Area (16) of the City's Comprehensive Master Plan. The recommended land use designation in both documents is Service Industrial. As referenced above, the implementing zoning districts for these use designations applied to the property is I-2 (Heavy Industrial) within the County and I-L (Light Industrial) within the City. However, given the unique nature of the property, there are other adopted studies intended to govern the future use of the site.

Ordinance No. 36-83

In 1983 the Mayor and Council of Rockville adopted Ordinance 36-83 (see Attachment 3), which allowed specific uses to be implemented in conjunction with the development of a 12,512 square foot addition on the site. This application was authorized by a provision within the Zoning Ordinance which allowed improved properties "within and without the corporate limits of the City" to implement certain uses which were allowed at the time of the initial improvements in the County to also be allowed in the portion of the property in the City. Under this provision, the applicant sought permission to allow retail, restaurants, offices and banks with drive-through facilities. These uses were approved for the portion of the property in the City with the adoption of the above-referenced ordinance on October 24, 1983.

Prior to this action, in correspondence dated April 8, 1983 (see Attachment 4), Montgomery County agreed with the proposed uses for the property. In summary, the County stated that the area of the property "in the County is not regulated by the current provisions of the County's I-2 zone....", which did not permit retail, restaurant and office use, but is grandfathered and subject to the I-2 regulations as they existed in 1971. Further the letter states that:

"The cited zoning provisions, which are grandfathered allow commercial uses that are not permitted under the I-2 Zone's current provisions. Since the older zoning provisions are also grandfathered, the Burgundy Park Center, as situated in the County can accommodate commercial uses which would not be permitted under the current zoning ordinance."

Both of these documents support the future use of the property for uses other than light and/or heavy industrial use. Staff feels that the requested

MXE zoning district is consistent with the allowed uses identified in the above-referenced documents. The MXE district allows for the underlying light industrial use without precluding the use of the property for office and retail. The Zoning Ordinance provides the following description of the MXE district:

“Intended for areas that are either currently developed or are recommended for development primarily for office, light industrial, and industrial park uses, this zone allows for medium density development of office, retail, and residential uses. A mix of office and residential uses, including live/work and work/live units, is encouraged.”

1999 Gude Drive – Southlawn Lane Special Study

In 1999 the Montgomery County Planning Board approved a special study of the Gude Drive – Southlawn Lane area. The purpose of the study was the establishment of a policy regarding annexations in the study area for properties zoned for heavy industrial use. The study concluded that it was important to maintain as much of the current I-2 zoned land as possible, which is generally along Southlawn Lane north of East Gude Drive. However for the subject property the study concludes that:

“The existing retail center in the southeast quadrant of the intersection of Gude Drive and Southlawn Lane is suitable for light industrial or other service industrial activities.”

The study acknowledges that the City’s service industrial zoning (which was the I-1 Zone at that time) allowed for certain retail functions, while prohibiting heavy industrial uses allowed in the County’s I-2 zone. Based on the study’s concurrence that service industrial use is appropriate for this property, and the fact that the MXE Zone permits service and light industrial uses but not heavy industrial uses, staff is supportive of the requested zoning. The proposed MXE zoning is appropriate for allowing the continuation of the existing uses of the center as permitted uses, as well as providing for the future development of light and service industrial activities in combination.

Adequacy of Public Facilities

Water and Sewer

The Washington Suburban Sanitary Commission (WSSC) currently provides water and sewer services to the properties within the annexation area. Service will continue to be provided by WSSC.

Roads:

The existing public roads are adequate to serve the properties within the annexation area. The site is currently improved and occupied by 5 buildings. No additional development is proposed for the site at this time.

Police Services:

Police protection will primarily be provided by the Rockville Police Department in conjunction with the Montgomery County Police Department. County Police District 1 serves Rockville, though the resources of the entire County Department are available if needed.

Fire, EMS and Rescue Services:

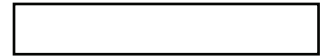
No significant impacts on emergency services are anticipated as result of this annexation since there are no proposed changes to existing uses. The Montgomery County Fire and Emergency Services (MCFRS) provides fire and disaster protection. Rockville does not provide this service as part of municipal government. There are two fire stations in Rockville, and Station 3 serves this area, although other stations are available to supplement service (such as Stations 28 and 25).

School Services:

No impacts on Montgomery County public schools system are anticipated as a result of this annexation since there are no existing residential units and no proposed change to existing uses. The buildings that currently occupy the property are commercial and industrial.

Parks and Recreational/Public Libraries:

Similarly, parks and recreation facility expansion are not proposed for this annexation since no additional impact is anticipated as a result. With no additional residential units proposed, there are no impacts to the Montgomery County Public Library system.

Stormwater Management:

If annexed, all properties must pay an annual Stormwater Management Utility Fee in accordance with Section 19-36 of the Rockville City Code. The City Stormwater Management Utility Fee will replace the Water Quality Protection Charge, an annual fee assessed by the Montgomery County Department of Environmental Protection. City of Rockville properties are exempted from the Montgomery County Water Quality Protection Charge.

Impact on Sensitive Environmental Areas:

Since there is no development planned on the site, there are no impacts to the environmental resources on or immediately adjacent to the site.

Cost to the City on having to provide such services:

The City will not incur any significant increases in operational costs as result of the annexation.



AS RECORDED IN LIBER 4655 AT FOLIO 361, LIBER 5940 AT FOLIO 479 AND LIBER 8750 AT FOLIO 209
BROCKVILLE ELECTION DISTRICT No. 4 MONTGOMERY COUNTY, MARYLAND

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Ordinance No. 36-83ORDINANCE: To grant, in part, Application
SL-1-83, Burgundy Park Associates,
Applicant

WHEREAS, Burgundy Park Associates, c/o William J. Chen, Jr., Esquire, 200A Monroe Street, Rockville, Maryland 20850, filed Application SL-1-83, requesting permission to implement certain additional uses on a 12,512 sq.ft. addition to the Burgundy Park Center located on East Gude Drive and Southlawn Lane, pursuant to Section 1-201(d) of the Zoning and Planning Ordinance; and

WHEREAS, pursuant to Sections 1-201(d)(4) of the Zoning and Planning Ordinance, the Planning Commission, at its meeting of August 31, 1983, reviewed the subject application and forwarded its recommendations thereon to the Mayor and Council; and

WHEREAS, pursuant to Section 1-201(d)(3) of the Zoning and Planning Ordinance, the Mayor and Council gave notice that a public hearing on said application would be held by the Mayor and Council of Rockville in the Council Chamber at Rockville City Hall on September 12, 1983, at 8:30 p.m., or as soon thereafter as may be heard, at which parties in interest and citizens would have an opportunity to be heard; and

WHEREAS, on September 12, 1983, the said application came on for hearing at the time and place indicated in the said notice; and said matter having been fully considered by the Mayor and Council, the Mayor and Council having decided that the approval of this application, in part, as hereinafter described, would promote the health, safety and general welfare of the citizens of the City of Rokville, the Mayor and Council specifically finding, pursuant to Section 1-201(d)(1), based upon the information submitted by the Applicant, the staff report dated August 26, 1983, the Planning Commission report dated September 2, 1983, the public hearing of September 12, 1983, as well as the remaining matters contained in the record on said application, that some of the uses requested by the Applicant, as more particularly

Ordinance No. 36-83

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hereinafter described would not:

1. Adversely affect the health and safety of residents or workers in the area; or
2. Overburden existing public services, including water, sanitary sewer, public roads, storm drainage and other public improvements; or
3. Be detrimental to the use and development of adjacent properties or the neighborhood; or
4. Change the character of the neighborhood in which the uses are proposed considering service currently required, population density, character and number of similar uses.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, as follows:

1. That application SL-1-83, Burgundy Park Associates, be granted, in part, and that the applicant is hereby authorized to implement the following uses, as listed in the Table of Commercial Office and Industrial Uses of the Zoning Ordinance, on the 12,512 square foot addition to the Burgundy Park Center:

- (1) Branch office of banks and savings and loan associations not having drive-in facilities for the transaction of business from motor vehicles;
- (2) Branch office of banks and savings and loan associations having drive-in facilities for the transaction of business from motor vehicles;
- (3) General and professional offices including medical practitioners;
- (4) Restaurants, Class I and Class II, provided that this use shall not be allowed in a free standing building and further provided that no single restaurant either Class I or Class II may occupy more than twenty five percent of the gross floor area of the building on the subject property;

Ordinance No. 36-83

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(5) Retailing of household appliances, provided that no single such use may occupy more than fifteen percent of the gross floor area of the building on the subject property;

(6) Retailing of home furniture and furnishings, provided no single such use may occupy more than fifteen percent of the gross floor area of the building on the subject property;

(7) Retailing of office furniture and furnishings;

(8) Retailing of groceries, provided that not more than five thousand (5,000) square feet of floor area be devoted to each such use;

(9) Retailing of books, magazines and newspapers;

(10) Alcoholic beverages for consumption on the premises of any restaurant or delicatessen;

(11) Alcoholic beverages for consumption off the premises.

2. That the applicant shall submit for approval to the Director of Planning a revised use permit.

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of October 24, 1983.

Kelen M. Heneghan
City Clerk



Montgomery County Government

April 8, 1983

William J. Chen, Jr., Esq.
Chen, Walsh, and Tecler
200A Monroe Street
Suite 300
Rockville, Maryland 20850

Re: Burgundy Park Center

Dear Mr. Chen:

This letter is to respond to your request that I clarify my letter of January 12, 1983, to Mr. Larry Owens, Zoning Administrator for the City of Rockville. The matter pertains to the proposed addition to 1300 East Gude Drive at Southlawn Lane which is part of a local facility known as the Burgundy Park Center.

Since my letter of January 12, 1983, I have had an opportunity to further review this matter with my staff and the County Attorney's Office. The review indicates that the portion of the Center that is located within Montgomery County is, as to zoning, regulated through Section 59-C-5.422 of the County's Zoning Ordinance. At the time the Center was constructed in 1972 the area located in the County was classified in the County's I-2 zonal district. By virtue of Section 59-C-5.422 the land in the County is deemed to still be classified in the I-2 zone as that zone existed prior to its re-codification on March 16, 1971. In other words, the area in the County is not regulated by the current provisions of the County's I-2 Zone, but is "grandfathered" and regulated by the I-2 Zone's provisions as they existed in 1971. See Section 111-23, Montgomery County Code 1970, as amended.

The cited zoning provisions, which are grandfathered allow commercial uses that are not permitted under the I-2 Zone's current provisions. Since the older zoning provisions are also grandfathered, the Burgundy Park Center, as situated in the County, can accommodate commercial uses which would not be permitted under the current zoning ordinance.

Department of Environmental Protection
Division of Construction Codes Enforcement

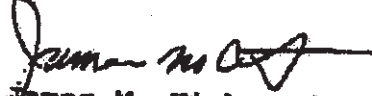
Executive Office Building, 101 Monroe Street, Rockville, Maryland 20850, 301/351-2700

William J. Chen, Jr., Esq.
Page Two

Section 111-23, as amended, appears to establish that O'Brien's Barbeque restaurant (including its expansion), a pizza parlor, a seafood restaurant, a fried chicken carryout, an insurance office, and a 7-11 store are permitted uses on the land area of the Burgundy Park Center located in the County, assuming all other ordinance requirements are satisfied.

I hope this clarifies the County's position.

Sincerely,


James M. Hicks, Jr.
Chief

JMH:mc

NOTICE

The City of Rockville Community Planning and Development Services Department wishes to inform you of a public meeting before the Planning Commission concerning an Annexation Application affecting your neighborhood.

Application: Annexation Application, ANX2011-00140
Location: 1300-1314 East Gude Drive and 14803, 14805, 14809 Southlawn Lane
Applicant: Burgundy Park (BP) Associates Limited Partnership
 16220 South Fredrick Avenue, Suite 325
 Gaithersburg, MD 20877-400

Proposal: The applicant has applied for the annexation of 3.12 acres into the corporate limits of the City of Rockville, and has requested the property be placed in the MXE, Mixed-Use Employment zone pursuant to the City's Zoning Ordinance.

Planning Commission: The Planning Commission will consider this application at a public hearing scheduled for Wednesday, May 11, 2011, at 7:00pm in the Mayor and Council Chambers at City Hall, 111 Maryland Avenue.

For additional information, visit the City of Rockville's Department of Community Planning and Development Services in City Hall or on the web at www.rockvillemd.gov or call Jeremy Huributt, Staff Planner at 240-314-8227. Application files are available for public review Monday thru Friday from 8:30 a.m. to 5 p.m.

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Resolution No. _____

RESOLUTION: To enlarge the corporate boundaries of the City of Rockville to include 3.12899 acres of land of Burgundy Park Associates Limited Partnership

WHEREAS, public notice of a resolution to annex property of Burgundy Park Associates Limited Partnership, totaling 3.12899 acres of land, more or less, hereinafter more particularly described, has been published not fewer than two times at not less than weekly intervals in a newspaper of general circulation in the City of Rockville and the area to be annexed, said notice specifying that a public hearing would be held by the Mayor and Council on said resolution at Rockville City Hall, on June 20, 2011, at 7:00 p.m.; and

WHEREAS, the Mayor and Council conducted a public hearing on said resolution at the time and place provided for in said advertisement which hearing was not less than fifteen days after the second publication of the public notice referenced above; and

WHEREAS, an annexation plan consistent with the municipal growth element of the comprehensive plan of the City was provided to the County Executive of Montgomery County, Maryland, the Secretary of the State Department of Planning and the Chairman of the Maryland-National Capital Park and Planning Commission at least thirty days prior to the holding of the scheduled public hearing; and

WHEREAS, immediately after the first publication of the public notice in said newspaper, a copy of that public notice was provided to the County Executive of Montgomery County, Maryland, the Secretary of the State Department of Planning and the Chairman of the Maryland-National Capital Park and Planning Commission; and

Resolution No. ____

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WHEREAS, this matter having been considered and deliberated by the Mayor and Council of Rockville, and the Mayor and Council having decided that enactment of this resolution would promote the health, safety and welfare of the City of Rockville.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, as follows:

Section 1. That the corporate limits of the City of Rockville are hereby extended to include the following area, which is hereby added to the City.

**Part of the Property of
BP ASSOCIATES LIMITED PARTNERSHIP,
a Maryland limited partnership**

All that piece, parcel or tract of land situate, lying and being in the Rockville, Election District, Montgomery County, State of Maryland and being more particularly described as follows:

Being part of Lot 12, Block B as shown on a plat of subdivision entitled "Lots 10, 11, 12 & 13, A Resubdivision of Lots 6, 7, & 9, Burgundy Park" recorded September 10, 1979 in Plat Book 108 as Plat 12613 among the Land Records of Montgomery County, Maryland, said part of Lot 12, Block B being part of the three (3) following conveyances: (1) from WAVERLY ASSOCIATES, INC., a Maryland Corporation to BURGUNDY PARK ASSOCIATES by deed dated June 23, 1975 and recorded June 26, 1975 in Liber 4655 at Folio 361 (2) from WAVERLY ASSOCIATES, INC. to BURGUNDY PARK ASSOCIATES, a Maryland Limited Partnership by deed Corporate Deed dated October 4, 1982 and recorded October 6, 1982 in Liber 5940 at Folio 479 and (3) from WAVERLY ASSOCIATES, INC. to BP ASSOCIATES LIMITED PARTNERSHIP, a Maryland limited partnership by Corporate Deed dated May 23, 1985 and recorded May 31, 1985 in Liber 6750 at Folio 209, all among the aforesaid Land Records, said Burgundy Park Associates now known as BP Associates Limited Partnership by virtue of amended and restated limited partnership agreement dated September 11, 1984 and recorded among the corporation records at WMS 565-445.

Beginning for the same at the point of beginning of the aforementioned conveyance recorded in Liber 6750 at Folio 209, being the northwesterly most corner of the aforementioned Lot 12, Block B and being the westerly most common corner of Lots 11 and 12, Block B as shown on the aforementioned Plat 12613 on the westerly right of way line of Southlawn Lane, 80 feet wide, as shown on said plat, thence leaving said westerly right of way line and running with the outlines of said Lot 12, Block B with the first (1st) through fourth (4th) lines of said conveyance and with the common dividing lines of said Lots 11 and 12, Block B the following four (4) courses, in the datum of the Washington Suburban Sanitary Commission as shown on said Plat 12613

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1. South 81°58'40" East, 200.00 feet, thence
2. South 08°01'20" West, 5.00 feet, thence
3. South 81°58'40" East, 300.00 feet, thence
4. South 50°20'50" East, 39.74 feet to the end of said fourth (4th) line where the outlines of the aforementioned Lots 11 and 12, Block B cease to be common and the outlines of Lot 12, Block B begin to be common with the southwesterly most line of Lot 15, Block B as shown on a plat of subdivision entitled "Lot 15 – Block B, Burgundy Park" recorded in Plat Book 134 as Plat 15578 among the aforementioned Land Records, said southwesterly most line of Lot 15, Block B also being shown on Condominium Plats 5048 through 5050 and 5072 through 5074 entitled "Redgate Business Park Condominium" all recorded among the aforementioned Land Records, thence still with the outline of Lot 12, Block B, with part of said southwesterly line of Lot 15, Block B and with all of the fifth (5th) line of the aforementioned conveyance recorded in Liber 6750 at Folio 209
5. South 02°51'09" East, 208.85 feet to the end of said fifth (5th) line, also being the beginning of the sixth (6th) line of the aforementioned conveyance recorded in Liber 5940 at Folio 479, thence with part of said sixth (6th) line and the aforementioned common dividing line of Lots 12 and 15, Block B, still
6. South 02°51'09" East, 50.60 feet to a point at the end of the sixteenth (16th) line of a parcel of land annexed into the City of Rockville, Maryland as described in Resolution No. 74-61 adopted by the Mayor and Council of Rockville November 13, 1961, thence leaving the outline of the aforementioned Lot 12, Block B to cross and include a part of said Lot and parts of the first three (3) aforementioned conveyances running with the existing corporate boundaries of the City of Rockville with all of said sixteenth (16th) line, reversed
7. South 78° 19' 38" West, 300.15 feet to the end thereof at a point on the westerly margin of a previous right of way for a road, thirty (30) feet wide, as shown on a plat of subdivision entitled "Burgundy Park" recorded in Plat Book 1 as Plat 25 among the aforementioned Land Records, abandoned by decree of the Circuit Court of Montgomery County, Maryland in Equity Case 34179, thence with said westerly margin and still with the existing corporate boundaries of the City of Rockville and all of the fifteenth (15th) through thirteenth (13th) lines and part of the

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twelfth (12th) line, of the aforementioned annexed parcel described in Resolution No. 74-61, reversed the following four (4) courses

8. North 11° 40' 22" West, 50.00 feet to a point, thence
9. 165.18 feet along the arc of a tangent curve deflecting to the left with a radius of 315.00 feet and a chord bearing and distance of North 26° 41' 44" West, 163.30 feet to a point, thence on a line tangent to the previously described curve
10. North 41° 43' 05" West, 171.67 feet to a point, thence
11. 91.87 feet along the arc of a tangent curve deflecting to the right with a radius of 285.00 feet and a chord bearing and distance of North 32° 28' 59" West, 91.48 feet to intersect the aforementioned westerly right of way line of Southlawn Lane, an arc distance of 180.51 feet from the southerly end of curve number two (2) as shown on the aforementioned Plat 12613, said point being the end of the fourth (4th) line of the aforementioned conveyance recorded in Liber 4655 at Folio 361 and the end of the sixth (6th) line of the aforementioned conveyance recorded in Liber 6750 at Folio 209, thence leaving the aforementioned twelfth (12th) line of the annexed parcel, the existing corporate limits of the City of Rockville and the aforementioned westerly margin of the road abandoned by Equity Case 34179 and running with said westerly right of way line of Southlawn Lane and all of the seventh (7th) and eighth (8th) lines of said conveyance recorded in Liber 6750 at Folio 209, the following two (2) courses
12. 10.67 feet along the arc of a curve deflecting to the left, non-tangent to the previously described curve, with a radius of 751.00 feet and a chord bearing and distance of North 08° 25' 45" East, 10.67 feet, thence on a line tangent to the previously described curve
13. North 08° 01' 20" East, 9.33 feet to the **Point of Beginning** containing 136,299 square feet or 3.12899 acres of land.

Section 2. That all territory hereby annexed to the City of Rockville and the persons residing thereon shall, after the effective date of this resolution, be subject to the Charter, laws, ordinances and regulations of said City.

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Section 3. That as soon as the annexation provided by this resolution shall become effective, the Mayor shall promptly register both the original boundaries and the new boundaries of the City with the City Clerk of Rockville, with the Clerk of the Circuit Court for Montgomery County, Maryland, with the Maryland-National Capital Park and Planning Commission, and shall send, or cause to be sent, separately by certified mail, return receipt requested, one copy of this resolution to the Department of Legislative Reference.

* * * * *

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Mayor and Council of Rockville at its meeting of .

Glenda P. Evans, City Clerk

Resolution No. _____

RESOLUTION: To provide for public hearing in connection with the annexation of 3.12899 acres of land, more or less, of Burgundy Park Associates Limited Partnership

WHEREAS, a petition has been presented by Burgundy Park Associates Limited Partnership requesting that a parcel of land totaling 3.12899 acres of land, more or less, be annexed by the Mayor and Council, which parcel is located at the intersection of Gude Drive and Southlawn Lane, and which has a premises address of 14803, 14805 and 14809 Southlawn Lane and 1300-1314 Gude Drive, Maryland; and

WHEREAS, the signatures on said petition have been verified and it has been ascertained that the persons signing said petition represent at least twenty-five percent (25%) of the persons who reside in the area to be annexed, who are registered voters in county elections in the precinct or precincts in which the territory to be annexed is located, and the owners of twenty-five percent (25%) of the assessed valuation of the real property located in the area to be annexed; and

WHEREAS, pursuant to the provisions of Section 19(c) of Article 23A of the Annotated Code of Maryland, a resolution has been introduced which, if adopted, would annex the additional property referenced herein, which property is more particularly described in said resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, as follows:

1. That the City Clerk is instructed to cause a public notice of the resolution which has been introduced which, if adopted, would annex property of Burgundy Park Associates Limited Partnership, to be published not fewer than two times at not less than weekly intervals in a newspaper of general circulation in the City of Rockville and the area to be annexed, said notice

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to specify that a public hearing will be held on the resolution in the office of the Mayor and Council at 7:00 p.m. or as soon thereafter as it may be held, on the 20th day of June, 2011, in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 20850.

2. That the City Clerk is instructed to provide a copy of the Annexation Plan for the area proposed to be annexed to the County Executive of Montgomery County, Maryland, the Secretary of the State Department of Planning and the Chairman of the Maryland-National Capital Park and Planning Commission at least thirty days prior to the holding of the scheduled public hearing.

3. That immediately upon the first publication of the public notice of said resolution, the City Clerk is instructed to cause said public notice to be provided to the County Executive of Montgomery County, Maryland, Secretary of the State Department of Planning and the Chairman of the Maryland-National Capital Park and Planning Commission.

* * * * *

I hereby certify that the foregoing is a true and correct copy of a
resolution adopted by the Mayor and Council at its meeting of .

Glenda P. Evans, City Clerk

Resolution No. 7-11

RESOLUTION: To provide for public hearing in connection with the annexation of 3.12899 acres of land, more or less, of Burgundy Park Associates Limited Partnership

WHEREAS, a petition has been presented by Burgundy Park Associates Limited Partnership requesting that a parcel of land totaling 3.12899 acres of land, more or less, be annexed by the Mayor and Council, which parcel is located at the intersection of Gude Drive and Southlawn Lane, and which has a premises address of 14803, 14805 and 14809 Southlawn Lane and 1300-1314 Gude Drive, Maryland; and

WHEREAS, the signatures on said petition have been verified and it has been ascertained that the persons signing said petition represent at least twenty-five percent (25%) of the persons who reside in the area to be annexed, who are registered voters in county elections in the precinct or precincts in which the territory to be annexed is located, and the owners of twenty-five percent (25%) of the assessed valuation of the real property located in the area to be annexed; and

WHEREAS, pursuant to the provisions of Section 19(c) of Article 23A of the Annotated Code of Maryland, a resolution has been introduced which, if adopted, would annex the additional property referenced herein, which property is more particularly described in said resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, as follows:

1. That the City Clerk is instructed to cause a public notice of the resolution which has been introduced which, if adopted, would annex property of Burgundy Park Associates Limited Partnership, to be published not fewer than two times at not less than weekly intervals in a newspaper of general circulation in the City of Rockville and the area to be annexed, said notice

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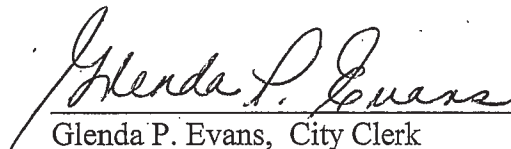
to specify that a public hearing will be held on the resolution in the office of the Mayor and Council at 7:00 p.m. or as soon thereafter as it may be held, on the 20th day of June, 2011, in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland 20850.

2. That the City Clerk is instructed to provide a copy of the Annexation Plan for the area proposed to be annexed to the County Executive of Montgomery County, Maryland, the Secretary of the State Department of Planning and the Chairman of the Maryland-National Capital Park and Planning Commission at least thirty days prior to the holding of the scheduled public hearing.

3. That immediately upon the first publication of the public notice of said resolution, the City Clerk is instructed to cause said public notice to be provided to the County Executive of Montgomery County, Maryland, Secretary of the State Department of Planning and the Chairman of the Maryland-National Capital Park and Planning Commission.

* * * * *

I hereby certify that the foregoing is a true and correct copy of a
resolution adopted by the Mayor and Council at its meeting of March
28, 2011.



Glenda P. Evans, City Clerk